

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

---

**IN RE: BPS DIRECT, LLC and  
CABELA'S, LLC, WIRETAPPING  
LITIGATION**

---

**MDL NO. 3074  
2:23-md-03074-MAK**

---

**NOTICE OF APPEAL**

Plaintiffs Brian Calvert, Heather Cornell, Timothy Durham, Marilyn Hernandez, Greg Moore, Peter Montecalvo, Arlie Tucker, and Brittany Vonbergen hereby appeal to the United States Court of Appeals for the Third Circuit from the Court's Memorandum Opinion and Order (ECF Nos. 88, 89) dated December 5, 2023 and Order (ECF No. 97) dated December 18, 2023, granting Defendants' Motions to Dismiss, entered by Hon. Mark A. Kearney in the United States District Court for the Eastern District of Pennsylvania.

Date: December 20, 2023

/s/ Nicholas A. Colella

Nicholas A. Colella (PA Bar # 332699)

Gary F. Lynch (PA Bar # 56887)

Kelly K. Iverson (PA Bar # 307175)

Jamisen Etzel (PA Bar # 311514)

Elizabeth Pollock-Avery (PA Bar # 314841)

Patrick Donathen (PA Bar # 330416)

**LYNCH CARPENTER, LLP**

1133 Penn Avenue, 5<sup>th</sup> Floor

Pittsburgh, PA 15222

Tel: (412) 322-9243

[NickC@lcllp.com](mailto:NickC@lcllp.com)

[Gary@lcllp.com](mailto:Gary@lcllp.com)

[Kelly@lcllp.com](mailto:Kelly@lcllp.com)

[Jamisen@lcllp.com](mailto:Jamisen@lcllp.com)

[Elizabeth@lcllp.com](mailto:Elizabeth@lcllp.com)

[Patrick@lcllp.com](mailto:Patrick@lcllp.com)

Kate M. Baxter-Kauf

Karen Hanson Riebel

Maureen Kane Berg

**LOCKRIDGE GRINDAL NAUEN P.L.L.P.**

100 Washington Avenue South, Suite 2200

Minneapolis, MN 55401

Tel: (612) 339-6900

[kmbaxter-kauf@locklaw.com](mailto:kmbaxter-kauf@locklaw.com)

[khriebel@locklaw.com](mailto:khriebel@locklaw.com)

[mkberg@locklaw.com](mailto:mkberg@locklaw.com)

Katrina Carroll

**LYNCH CARPENTER, LLP**

111 W. Washington St. Suite 1240

Chicago IL 60602

Tel: (312) 750-1265

[katrina@lcllp.com](mailto:katrina@lcllp.com)

Joseph H. Kanee

**MARCUS & ZELMAN LLC**

701 Brickell Avenue, Suite 1550

Miami, FL 33131

Tel: (786) 369-1122

[joseph@marcuszelman.com](mailto:joseph@marcuszelman.com)

Ari H. Marcus (PA Bar # 322283)

**MARCUS & ZELMAN LLC**

701 Cookman Avenue, Suite 300

Asbury Park, NJ 07712

Tel: (732) 695-3282

[ari@marcuszelman.com](mailto:ari@marcuszelman.com)

*Plaintiffs' Co-Lead and Liaison Counsel*

Carey Alexander

**SCOTT & SCOTT**

**ATTORNEYS AT LAW LLP**

230 Park Avenue

Ste 17th Floor

New York, NY 10169

Tel: (212) 223-6444

[calexander@scott-scott.com](mailto:calexander@scott-scott.com)

MaryBeth V. Gibson

**THE FINLEY FIRM, P.C.**

3535 Piedmont Rd.

Building 14, Suite 230

Atlanta, GA 30305

Tel: (404) 978-6971

[mgibson@thefinleyfirm.com](mailto:mgibson@thefinleyfirm.com)

Steven M. Nathan

**HAUSFELD LLP**

33 Whitehall Street Fourteenth Floor

New York, NY 10004

Tel: (646) 357-1100

[snathan@hausfeld.com](mailto:snathan@hausfeld.com)

James J. Pizzirusso (Md. Bar No. 20817)

**HAUSFELD LLP**

888 16th Street N.W. Suite 300 Washington, D.C.  
20006

(202) 540-7200

[jpizzirusso@hausfeld.com](mailto:jpizzirusso@hausfeld.com)

*Plaintiffs' Steering Committee*